

**TARGETED MARKET CONDUCT EXAMINATION REPORT**  
**AS OF JULY 31, 2005**

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**CPR Title, Inc.**  
**6350 West 92<sup>nd</sup> Avenue, Unit 150**  
**Westminster, Colorado 80031**

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**EXAMINATION PERFORMED BY**  
**DIVISION OF INSURANCE STAFF**  
**COLORADO DEPARTMENT OF REGULATORY AGENCIES**  
**STATE OF COLORADO**

**CPR Title, Inc.  
6350 West 92<sup>nd</sup> Avenue, Unit 150  
Westminster, Colorado 80031**

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EXAMINATION REPORT  
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**Examination Performed by  
Paula M. Sisneros, AIS  
Bobbie Baca  
Cliff Hinson**

**Division of Insurance Staff**

January 6, 2006

The Honorable David F. Rivera  
Commissioner of Insurance  
State of Colorado  
1560 Broadway, Suite 850  
Denver, Colorado 80202

Commissioner:

This targeted market conduct examination of CPR Title, Inc. was conducted pursuant to §§ 10-1-203, 10-2-804 and 10-3-1106, C.R.S., which authorizes the Insurance Commissioner to examine title insurance agents and agencies. We examined the Agency's records and conducted interviews at its Westminster office located at 6350 West 92<sup>nd</sup> Avenue, Unit 150, Westminster, Colorado 80031. The market conduct examination covered selected business practices associated with the ownership and operation of a title insurance agency through July 31, 2005.

The following market conduct examiners respectfully submit the results of the examination.

Paula M. Sisneros, AIS

Bobbie Baca

Cliff Hinson

**MARKET CONDUCT  
EXAMINATION REPORT  
OF  
CPR TITLE, INC.**

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### **AGENCY PROFILE**

Colorado Public Records, Incorporated was incorporated on January 25, 2000 with the trade name CPR Title. CPR Title obtained a Colorado resident agency license for title insurance in the name of CPR Title, Inc. (CPR or Agency) on May 20, 2002. Their license number is 139906 and the responsible producer as of July 31, 2005 was Douglas P. Farr. Two individuals own CPR, Bethany Newcomb, an unlicensed individual, and Douglas Farr who holds Colorado resident producer license number 101962 and is authorized to conduct title insurance transactions\*.

CPR performs routine title services to include title search and examination, commitment and policy issuance, and closing services. Previously, Fidelity National Title Insurance Company underwrote CPR files. Attorneys Title Guaranty Fund, Inc. or Dakota Homestead Title Insurance Company currently underwrites CPR's business.

In addition to performing its own title services, CPR also provides title services to Mr. Farr's affiliated title agencies. These agencies include, but are not limited to, CPR Title of Boulder, LLC, Elite Title Services, Inc., First Choice Title, LLC, Freedom Title and Escrow, LLC, KD Title and Appraisal, LLC, Lenders Title, LLC, Liberty Title and Appraisal, LLC, Neighborhood Title Services, LLC, Tri City Title, LLC and Uptown Title and Escrow, LLC. CPR also provides accounting, human resource, payroll, benefit, and IT/ITS services to some of these affiliated agencies.

\*The Colorado Commissioner of Insurance issued a summary suspension order on November 15, 2005 listing CPR and Douglas P. Farr as respondents. To review the order, please visit the Division's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance).

## **PURPOSE AND SCOPE OF EXAMINATION**

State market conduct examiners with the Colorado Division of Insurance (Division), in accordance with Colorado insurance law, §§ 10-1-201, 10-1-203, 10-1-204, 10-2-804 and 10-3-1106, C.R.S., which empowers the Commissioner to require any person engaged in the business of insurance to be examined, reviewed certain business practices of CPR. The findings in this report, including all work products developed in producing it, are the sole property of the Division.

The purpose of the targeted examination was to determine the Agency's compliance with Colorado insurance law and with generally accepted operating principles related to title insurance agencies. This targeted examination was triggered by an investigation conducted by Division staff related to affiliated business arrangements. The preliminary findings from the investigation indicated a need for a more in-depth review of certain business practices to determine if the Agency was in compliance with Colorado insurance law. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

Examiners conducted the examination in accordance with procedures developed by the Division, based on model procedures developed by the National Association of Insurance Commissioners. They relied primarily on records and materials maintained by the Agency and direct interviews with owners and staff of the Agency and affiliated businesses. Most of the documents reviewed during this examination were provided by the Agency in paper form, however some electronic data was also provided. The targeted market conduct examination covered the period from the Agency's inception through July 31, 2005.

The examination included review of the following:

### **Agency Operations and Management**

The final exam report is a report written by exception. References to additional practices, procedures, or files that did not contain improprieties, were omitted. For the period under examination, the examiners included statutory citations and regulatory references as they pertained to title insurance agencies.

Examination findings may result in administrative action by the Division. Examiners may not have discovered all unacceptable or non-complying practices of the Agency. Failure to identify specific Agency practices does not constitute acceptance of such practices. This report should not be construed to either endorse or discredit any title insurance agency or underwriter.

**EXAMINERS' METHODOLOGY**

The examiners reviewed the Agency's business practices to determine compliance with Colorado insurance laws and Colorado regulations. For this examination, special emphasis was given to the laws and regulations as shown in Exhibit 1.

**Exhibit 1**

<b>Law/Regulation</b>	<b>Concerning</b>
Sections 10-1-101 through 10-1-130	General Provisions
Section 10-1-203	Authority, Scope, and Scheduling of Examinations
Section 10-1-204	Conduct of Examinations
Section 10-2-704	Fiduciary Responsibilities
Section 10-2-804	Investigation by Commissioner
Sections 10-3-1101 through 10-3-1104.5	Unfair Competition - Deceptive Practices
Sections 10-11-101 through 10-11-123	Title Insurance Code of Colorado
Regulation 1-1-7	Market Conduct Record Retention
Regulation 1-1-8	Penalties and Timelines Concerning Division Inquires and Document Requests
Regulation 1-2-1	Concerning Agent Fiduciary Responsibilities
Regulation 3-5-1	Title Insurance

**EXAMINATION REPORT SUMMARY**

The examination resulted in a total of two (2) findings in which the Agency did not appear to be in compliance with Colorado Statutes and Regulations. The following is a summary of the examiners' findings and recommendations.

**Agency Operations and Management:** The examiners identified two (2) areas of concern during the review of the Agency's operations and management

1. Failure to maintain a separate trust account to hold premiums to be remitted to the insurer.
2. Failure, in some instances, to remit premiums to the insurer in a timely manner.

A copy of the Agency's response, if applicable, can be obtained by contacting the Agency or the Division.



**MARKET CONDUCT EXAMINATION REPORT**

**FACTUAL FINDINGS**

**CPR TITLE, INC**

**AGENCY OPERATIONS AND MANAGEMENT**  
**FINDINGS**

<b>Issue 1: Failure to maintain a separate trust account to hold premiums to be remitted to the insurer.</b>
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Section 10-2-704, C.R.S., states:

- (1) (a) All premiums belonging to insurers and all unearned premiums belonging to insureds received by an insurance producer licensee under this article shall be treated by such insurance producer in a fiduciary capacity. The commissioner may promulgate such rules as are necessary and proper relating to the treatment of such premiums.
- (b) All premiums received, less commissions if authorized, shall be remitted to the insurer or its agent entitled thereto on or before the contractual due date or, if there is no contractual due date, within forty-five days after receipt.  
  
. . . .
- (d) If any insurance producer has failed to account for any collected premium to the insurer to whom it is owing or to its agent entitled thereto for more than forty-five days after the contractual due date or, if there is no contractual due date, more than ninety days after receipt, the insurer or its agent shall promptly report such failure to the commissioner in writing.  
  
. . . .
- (3) No insurance producer under this article shall commingle premiums belonging to insurers and returned premiums belonging to insurers with the producer's personal funds or with any other funds except those directly connected with the producer's insurance business.

Regulation 1-2-1 promulgated under the authority of §§ 10-1-108(8), 10-1-109, 10-2-220 and 10-3-1110, C.R.S., states:

III. RULE:

- A. No insurance premium or refund received by an insurance agent, broker or agency by reason of the application for, issuance or termination of any particular policy may be credited to any other obligation owed by the insured to such agent, broker, agency or other insurer unless specific written authorization has been obtained from the insured to so credit, or a blanket authorization has been obtained from the insured to handle all policies and obligations from one account.
- B. Upon receipt, the insurance producer must treat all premiums and returned premiums in a fiduciary capacity, including but not limited to the following:

1. *Upon receipt the insurance producer must treat all premiums and return premiums as trust funds and segregate them from his own funds, and*
2. *the insurance producer must keep an accurate record of all fiduciary funds, and*
3. *the insurance producer must not treat insurance premiums or returned premiums as a personal or business asset, and*
4. *the insurance producer's financial statement should not reflect fiduciary funds as an asset or as income to the insurance producer, and*
5. *an insurance producer may not use fiduciary funds as collateral for a personal or business loan, but the insurance producer may receive interest on such funds and use as a compensation balance with the financial institution, and*
6. *any deposit of such premium and returned premium funds into a bank or savings account must be into a separate insurance trust account until actually remitted to the insurer or person entitled thereto. Such deposits will be subject to the uniform fiduciary's law as delineated in § 15-1-101, et seq, C.R.S.*

Colorado Division of Insurance Regulation 1-2-1 (emphasis added).

The examiners conducted interviews of some of the staff of CPR on August 29, 2005 and September 1, 2005. It appears that the Agency is not in compliance with Colorado insurance law in that it is not handling insurer premiums in a fiduciary capacity. Specifically, the Agency is or was transferring or depositing title policy premiums to the Agency operating account at disbursement instead of holding them in a trust capacity until they are remitted to the insurer. This appears to have resulted in a shortfall in the operating account and the inability for the Agency to pay its obligations to its underwriters. The examiners also obtained information indicating that policies were not issued promptly to consumers because the Agency spent premiums held in the operating account on other obligations and funds were not available to issue policies.

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**Recommendation No. 1:**

Within thirty (30) days, the Agency should provide documentation demonstrating why it should not be considered in violation of § 10-2-704, C.R.S. and Regulation 1-2-1. In the event the Agency is unable to show such proof, it should provide evidence to the Division that it has revised its procedures to ensure compliance with the cited laws, including opening a designated trust bank account to ensure that premiums being held for remittance to the insurer are held in a trust capacity as required by Colorado insurance law. It should also provide evidence that Agency personnel have reviewed section eight (8) of revised regulation 3-5-1 concerning rules regarding fiduciary duties.

<b>Issue 2: Failure, in some instances, to remit premiums to the insurer in a timely manner.</b>
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Section 10-2-704, C.R.S., Fiduciary responsibilities, states:

- (1) (a) All premiums belonging to insurers and all unearned premiums belonging to insured received by an insurance producer licensee under this article shall be treated by such insurance producer in a fiduciary capacity. The commissioner may promulgate such rules as are necessary and proper relating to the treatment of such premiums.  
  
. . . .
- (c) All premiums received, less commissions if authorized, shall be remitted to the insurer or its agent entitled thereto on or before the contractual due date or, if there is no contractual due date, within forty-five days after receipt.  
  
. . . .
- (e) If any insurance producer has failed to account for any collected premium to the insurer to whom it is owing or to its agent entitled thereto for more than forty-five days after the contractual due date or, if there is no contractual due date, more than ninety days after receipt, the insurer or its agent shall promptly report such failure to the commissioner in writing.
- (3) No insurance producer under this article shall commingle premiums belonging to insurers and returned premiums belonging to insurers with the producer's personal funds or with any other funds except those directly connected with the producer's insurance business.

Regulation 1-2-1 promulgated under the authority of §§ 10-1-108(8), 10-1-109, 10-2-220 and 10-3-1110, C.R.S., states:

**III. RULE:**

- A. No insurance premium or refund received by an insurance agent, broker or agency by reason of the application for, issuance or termination of any particular policy may be credited to any other obligation owed by the insured to such agent, broker, agency or other insurer unless specific written authorization has been obtained from the insured to so credit, or a blanket authorization has been obtained from the insured to handle all policies and obligations from one account.
- B. Upon receipt, the insurance producer must treat all premiums and returned premiums in a fiduciary capacity, including but not limited to the following:

1. *Upon receipt the insurance producer must treat all premiums and return premiums as trust funds and segregate them from his own funds, and*
2. *the insurance producer must keep an accurate record of all fiduciary funds, and*
3. *the insurance producer must not treat insurance premiums or returned premiums as a personal or business asset, and*
4. *the insurance producer's financial statement should not reflect fiduciary funds as an asset or as income to the insurance producer, and*
5. *an insurance producer may not use fiduciary funds as collateral for a personal or business loan, but the insurance producer may receive interest on such funds and use as a compensation balance with the financial institution, and*
6. *any deposit of such premium and returned premium funds into a bank or savings account must be into a separate insurance trust account until actually remitted to the insurer or person entitled thereto. Such deposits will be subject to the uniform fiduciary's law as delineated in § 15-1-101, et seq, C.R.S.*

Colorado Division of Insurance Regulation 1-2-1 (emphasis added).

The examiners conducted interviews of some of the staff of CPR on August 29, 2005 and September 1, 2005. It appears that the Agency is not in compliance with Colorado insurance law in that it is not handling insurer premiums in a fiduciary capacity. Specifically, it failed to remit premiums to its insurers as required by Colorado insurance law. Information obtained through the interviews indicates that the Agency had not remitted premium for over 6000 policies due for over 90 days. Additionally, final policies were not issued. (The examiners note that the Division has met with the insurers involved and they appear to have agreed to issue these 6000 policies to ensure that there is no consumer harm).

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**Recommendation No. 2:**

Within thirty (30) days, the Agency should provide documentation demonstrating why it should not be considered in violation of § 10-2-704, C.R.S. and Regulation 1-2-1. In the event the Agency is unable to show such proof, it should provide evidence to the Division that it has revised its procedures to ensure that premiums are remitted to the insurer in a timely manner in compliance with Colorado insurance law. Additionally, the Agency should provide a written plan of correction to the Division. Such plan should outline, in detail, the actions that have been taken, and will be taken, by both the Agency and the insurer to issue all outstanding policies. Also, it should provide evidence that it the Agency has reviewed and understands section eight (8) of revised regulation 3-5-1 concerning rules regarding fiduciary duties.

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**SUMMARY OF ISSUES AND RECOMMENDATIONS**

ISSUES	Rec. No.	Page No.
<b>CLAIMS</b>		
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Issue 2: Failure, in some instances, to remit premiums to the insurer in a timely manner.	2	15



**State Market Conduct Examiners**

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**For**

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**participated in this examination and in the preparation of this report.**